

Notice of Allowability

Application No.

10/693,161

Examiner

Susannah Chung

Applicant(s)

JEPPESEN ET AL.

Art Unit

1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to RCE filed 11/15/2005.
2. ☒ The allowed claim(s) is/are 1-36, 39-40, 42-43, 45, 47-49, 52, and 53 as amended.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 11/15/05
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

Claims 1-36, 39-40, 42-43, 45-53 are pending in the instant application.

Information Disclosure Statement

The information disclosure statement (IDS), filed on 11/15/2005 has been considered.

Please refer to Applicant's copy of the 1449 submitted herewith.

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

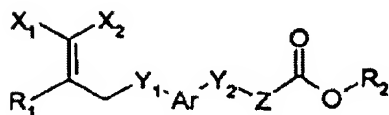
Authorization for this examiner's amendment was given in a telephone interview. Please see telephone interview form dated August 25, 2005.

The application has been amended as follows:

Delete claims 46, 50, and 51.

Reasons for Allowance

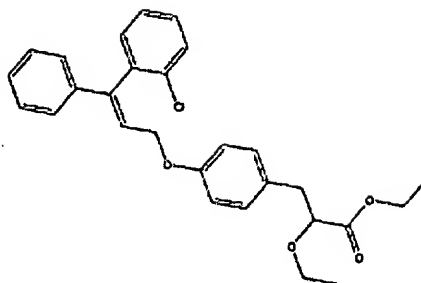
The present invention is directed to compounds and compositions of formula (I),



and its methods of use. The closest prior art of records is U.S.

Pat. No. 6,972,294 (Murray et al.), 2-{4-[3-(2-chloro-phenyl)-3-phenyl-allyloxy]-phenyl}-2-

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ethoxy-propionic acid ethyl ester, which is similar to the compounds claimed, except **Y1** and **Y2** are both oxygen or sulfur in the instant application, while in the prior art **Y2** is carbon.

The methods of using the claimed compounds and compositions of formula (I) for the treatment of diabetes, impaired glucose tolerance, insulin resistance or obesity are enabled by the written disclosure of the specification, journal articles, and prior art. The compounds of the present invention are disclosed in the specification as having activity as agonists of Peroxisome Proliferator-Activated Receptors (PPARs). See specification, p. 1, lines 11-14; p. 15, lines 27-30; p. 37, line 15 to page 38, line 24; and page 95, line 1 to page 96, line 24 (description of methodology). PPAR agonists are known in the art for the treatment of diabetes, insulin resistance, impaired glucose tolerance and obesity, and therapeutic agents of this kind are currently in clinical use or clinical trials as antidiabetic agents. See Kaplan et al., "PPARs Insulin Resistance and Type 2 Diabetes," J. Cardiovasc. Risk, vol. 8(4), pages 211-217 (Aug. 2001), especially p. 213, col. 1, lines 23-34 and 37-52 and Torra et al., "PPARs: from transcriptional control to clinical practice," Curr. Opin. Lipidol., Vol. 12, page 245-254 (2001), especially p. 250, col. 2, lines 9-18 and p. 245, lines 5-7.

Telephone Inquiry

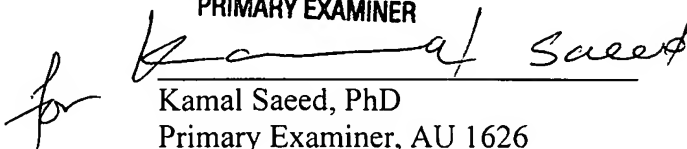
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susannah Chung whose telephone number is (571) 272-6098. The examiner can normally be reached on M-F, 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph McKane can be reached on (571) 272-0699. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Susannah Chung
Patent Examiner, AU 1626

Date: 16 June 2006

KAMAL A. SAEED, PH.D.
PRIMARY EXAMINER

Kamal Saeed, PhD
Primary Examiner, AU 1626